IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEALNO.1135 OF 2005

Dnyaneshwar Maruti Sonar ..Appellant

Versus

Krishnaji Damodar Valke and Anr. ..Respondents

Mr.S.S.Patwardhan for appellant

CORAM : P.V.KAKADE, J.

DATE : 4TH OCTOBER, 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by Addl. District Judge, Pandharpur dated 21.2.2005 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Sangola dated 2.6.2001 decreeing the plaintiff’s suit for perpetual injunction against the defendants.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit for perpetual injunction against the defendant on the ground that the Northern side land of 15 H 75 R from Gat No.260 at Village Alegaon, Tal. Sangola was disputed property and the plaintiff alleged that the suit land was originally owned by Maruti Laxman Sonar, the father of the defendants. the suit land was obtained by the predecessor of plaintiff for cultivation as a tenant. On the Tillers day i.e. on 1.4.1957 the plaintiff was tenant in the suit land and thus become deemed purchaser of the suit land. Accordingly his name was recorded in the record of rights and since ten he was cultivation of the suit property, which was also confirmed by the Revenue Court and plaintiff has further alleged that the defendants had no concerned to the suit property in any manner and when his possession was obstructed the suit came to be filed. The defendants contested the suit, inter alia, submitting that the plaintiff is not in possession of the suit property as a tenant and according to the defendants they have challenged the decision of the Revenue Court in Writ Petition No.5811

of 1986 in this Court which was pending and therefore the suit was premature and as such suit was sought to be dismissed.

. The trial court adjudicated the dispute on merits and came to the conclusion that the plaintiff was in lawful possession of the suit property and defendants had obstructed his possession and therefore, the plaintiff was entitled to perpetual injunction and suit came to be decreed in that fashion. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties and on the basis of available evidence concurred with the findings of the lower court and dismissed the appeal. Hence the present appeal.

4. At the outset, it must be noted that there is absolutely no substantial question of law involved in this appeal. The learned counsel for the appellant has fairly stated that Writ Petition No.5811 of 1986 which was pending in this Court, and which was the main defence in the trial court, is finally dismissed and as such the lower appellate court’s finding to the effect that the plaintiff has proved that he is in settled

possession of the suit property has to be confirmed. Under the circumstances, I do not see any reason to interfere and as such the appeal stands dismissed.